

REGISTER

South Dakota Legislative Research Council



Volume 32

Monday, 8:00 a.m., November 21, 2005

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Health: (November 16, 2005) intends to adopt and amend rules to add or clarify definitions, terms, and statements. In addition, rules will more closely comply with federal regulations and define the scope of article 44:03 (Radiation Safety), 44:04 (Medical Facilities), and 44:58 (Drug Control) to improve operator safety on x-ray equipment, improve public safety, clarify the experience of social service designee, amend reporting requirements to reflect current federal requirement, clarify use of chemicals, require safe food service, permit additional laundry processes, permit additional ventilation options for clean storage rooms, permit flexibility in removing putrescible garbage, improve occupant protection, expand qualifications for an assisted living center administrator, clarify personnel education, clarify tuberculin skin testing and history and physical examination requirements, provide a phase-in time period for new dietary guidelines, rename dining assistance program, clarify the purpose of social services in nursing facilities, remove vapor barrier and drain tile requirements, redefine purpose of wall finishes, revise exhaust ventilation requirements for cooking appliances, repeal soil treatment for termite control, introduce requirement for composition of interdisciplinary team for self-administration of drugs, remove the requirement regarding income of adult foster care owners, prohibit the use of portable space heaters and portable halogen lamps in adult foster care homes, update references, reverse distributor registration, and update theft report requirements. The general authority for these rules, as cited by the department, is SDCL

34-1-17, 34-12-13, 34-20B-41, 34-21-4.1, 34-21-15, and 34-22-9.

A public hearing will be held in the Governor's Small Conference Room, Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota, on December 14, 2005, at 1:00 p.m. to consider the adoption and amendment of proposed rules. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, Attn: Colleen Kozel, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website:

<http://www.state.sd.us/doh/News/index.htm>.

Material sent by mail must reach the department by December 24, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3361 at least 48 hours before the hearing.

Department of Environment and Natural Resources: Water Management Board:

(November 18, 2005) has filed a rule that will designate the beneficial use of warmwater semipermanent and marginal fish life propagation waters and limited contact recreation waters to a segment of Long Creek, a tributary of the Vermillion River in Lincoln and Turner Counties. The general authority for this rule, as cited by the board, is SDCL 34A-2-93.

A public hearing will be held in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on December 7, 2005, at 8:45 a.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent

to Patrick Snyder, Surface Water Quality Program, Department of Environment and Natural Resources, 523 East Capitol, Pierre, South Dakota 57501-3182. Material sent by mail must reach the Surface Water Quality Program by 5:00 p.m., December 5, 2005, in order to be taken into consideration. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3351 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATES OFFICE:

On November 10, 2005, the **DEPARTMENT OF SOCIAL SERVICES** filed an update to the South Dakota Food Stamp Program Certification and Accountability Manual. The update amends the standard amount for food stamp allotments related to group homes. The group home standard amounts have been increased effective October 2005 to reflect the October Food Stamp cost of living increase.

Executive Appointments:

Robin Lee, Aberdeen, was appointed on August 10, 2005, to the **South Dakota Commission on Health Care**, to replace Bruce Bad Moccasin, effective immediately and shall continue until June 30, 2008.

Bruce V. Anderson, Wagner, was appointed on November 7, 2005, as **Judge of the First Judicial Circuit Court of South Dakota**, to replace Boyd L. McMurchie, effective immediately upon taking the oath of office.

Kris Kratovil, Martin, was appointed on November 8, 2005, to the **Family Support Council**, to replace Michelle Jones, effective immediately and shall continue until June 30, 2008.

Rod Cundy, DeSmet, was reappointed on November 15, 2005, to the **Statewide One-Call**

Notification Center Board, effective immediately and shall continue until November 1, 2008.

Steve Lehner, Huron, was reappointed on November 15, 2005, to the **Statewide One-Call Notification Center Board**, effective immediately and shall continue until November 1, 2008.

Eugene Solseth, Rapid City, was reappointed on November 15, 2005, to the **Statewide One-Call Notification Center Board**, effective immediately and shall continue until November 1, 2008.

Barry Eikamp, Gettysburg, was appointed on November 16, 2005, to the **South Dakota Professional Administrators Practices and Standards Commission**, to replace Scott Gannaway, effective immediately and shall continue until December 31, 2006.

Glenna N. Foubert, Aberdeen, was reappointed on November 16, 2005, to the **South Dakota Board of Education**, effective immediately and shall continue until December 31, 2009.

Marilyn Hoyt, Huron, was reappointed on November 16, 2005, to the **South Dakota Board of Education**, effective immediately and shall continue until December 31, 2009.

Duncan S. Murdy, Aberdeen, was reappointed on November 16, 2005, to the **State Board of Pharmacy**, effective immediately and shall continue until October 1, 2008.

Michael Taplett, Huron, was appointed on November 16, 2005, to the **South Dakota Professional Administrators Practices and Standards Commission**, to replace Jim Denevan, effective immediately and shall continue until December 31, 2007.

Randall L. Macy, Spearfish, was appointed on November 17, 2005, as **Judge of the Fourth**

Judicial Circuit Court of South Dakota, to replace Timothy R. Johns, effective immediately upon taking the oath of office.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

12-1-2005	Game, Fish and Parks	Amend a rule to increase the daily electrical charge imposed at all campground sites having electricity; 32 SDR 85.
12-5-2005	Social Services: Office of Medical Services	Amend rules to the Medicaid prescription drug program to require prior approval from the department for certain prescription drugs; based on recommendations from the department's Pharmaceutical and Therapeutics (P&T) committee, allow the department to establish a list of drugs that are subject to prior approval; require a provider to obtain approval from the department before supplying a drug subject to prior approval; when recommending drugs considered appropriate for placement on the prior approval list, require the P&T committee to include a preferred list of covered prescription drugs within the appropriate therapeutic class for a particular disease or condition and the criteria for prior authorization; before placing a drug on the prior authorization list, provide notice to interested parties offering an opportunity to present data, opinions, and arguments concerning placement of the drug on the list; provide a 30 day written notice to providers informing them of the intended placement of a drug on the prior authorization list, the implementation date, and therapeutically equivalent drugs that do not require prior authorization which may be substituted; deny payment if prior authorization is not obtained or a therapeutically equivalent drug is not substituted; in emergency situations, allow a provider to dispense an emergency supply of a drug that requires prior authorization if a prior authorization request cannot be submitted and a response received within 24 hours; establish an appeal process for denied requests; and

		repeal rules that allowed a physician to override the multiple-source drug payment limit if "brand necessary" or "brand medically necessary" was written on the prescription; 32 SDR 86.
12-5-2005	Social Services: Office of Economic Assistance	Amend rules to the Food Stamp Program to increase the standard telephone allowance, the standard utility allowance, the limited utility allowance, and the one-utility allowance used by the department when computing the household's shelter expenses; and incorporate the latest changes to the monthly gross and net income eligibility standards, the household's maximum food stamp allotment, and the thrifty food plan as required by the United States Department of Agriculture, Food and Nutrition Service and used by the department when determining a household's eligibility for the Food Stamp Program and computing the amount of benefits a household is entitled to receive; 32 SDR 87.
12-5-2005	Environment and Natural Resources: Water Management Board	Amend a rule that will designate the beneficial use of warmwater semipermanent and marginal fish life propagation waters and limited contact recreation waters to a segment of Long Creek, a tributary of the Vermillion River in Lincoln and Turner Counties; 32 SDR 93.
12-7-2005	Revenue and Regulation: Insurance	Amend rules to modify the requirements when paper copies of life replacement notices must be provided to applicants for life insurance; require disclosure of policy provisions allowing for premium increases in certain advertisements and solicitations; require disclosure of policy provisions allowing for premium increases in certain advertisements for Medicare supplement insurance; require disclosure of policy provisions allowing for premium increases in certain advertisements for health insurance solicitation; and increase the allowable credit for certain continuing education coursework; 32 SDR 86.
12-8-2005	Administration	Amend rules to increase the maximum fees chargeable for legal publications required by state law; 32 SDR 85.
12-13-2005	Revenue and Regulation: Gaming Commission	Amend Deadwood Gambling Rules to eliminate language in the rules relating to copyrighting, patenting and rights to the game,

		as well as requirements that the table display the appropriate layout for Hold 'em eighty-eight, Three-card poker, Let it ride and let it ride bonus including three card bonus optional side bet, Caribbean stud poker, Bonus 6 poker, Twisted Pineapple poker, Texas Shootout poker, a variation of Texas Hold 'em poker, Silverado Study poker, Four-Card poker, and Hold 'em 212 poker; and amend a rule to recognize that bonus awards may be based on not only a specific wager, but also on a specific event and to clarify the procedures adhered to in slot machine promotional and bonus systems; 32 SDR 85.
12-14-2005	Health	Adopt and amend rules to add or clarify definitions, terms, and statements. In addition, rules will more closely comply with federal regulations and define the scope of article 44:03 (Radiation Safety), 44:04 (Medical Facilities), and 44:58 (Drug Control) to improve operator safety on x-ray equipment, improve public safety, clarify the experience of social service designee, amend reporting requirements to reflect current federal requirement, clarify use of chemicals, require safe food service, permit additional laundry processes, permit additional ventilation options for clean storage rooms, permit flexibility in removing putrescible garbage, improve occupant protection, expand qualifications for an assisted living center administrator, clarify personnel education, clarify tuberculin skin testing and history and physical examination requirements, provide a phase-in time period for new dietary guidelines, rename dining assistance program, clarify the purpose of social services in nursing facilities, remove vapor barrier and drain tile requirements, redefine purpose of wall finishes, revise exhaust ventilation requirements for cooking appliances, repeal soil treatment for termite control, introduce requirement for composition of interdisciplinary team for self-administration of drugs, remove the requirement regarding income of adult foster care owners, prohibit the use of portable space heaters and portable halogen lamps in adult foster care homes, update references, reverse

		distributor registration, and update theft report requirements; 32 SDR 93.
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Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 6, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: January 9, 2006.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.